

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 461 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE and
MR.JUSTICE C.K.BUCH

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?
(No. 1 to 5 NO)

VARDAN INTERMEDIATES & PIGMENTS PRIVATE LIMITED

Versus

GPCB

Appearance:

MR DS VASAVADA for Petitioner
NOTICE SERVED for Respondent No. 1, 2

CORAM : MR.JUSTICE S.D.DAVE and
MR.JUSTICE C.K.BUCH

Date of decision: 10/08/98

ORAL JUDGEMENT

Per: S.D. Dave, J

1) Rule. Ld. counsel Mr. Haresh Trivedi and Mr. Ashish Desai waive service of the rule for the Respondents GPCB and the State respectively. These

proceedings have been taken out in view of the orders dated 22nd April 1998 in Civil Application No. 3305 of 1997 in Spl.C.A. No. 2922 of 1995 for the refund of the amounts paid by the industry against clearance of the goods.

2) The amount being claimed by the industry has been shown at Para-13 of the petition, which is in sum of Rs.16,57,651-00. This amount has been deposited by the industry under various orders of this Court as to deposit. The amount stands deposited under different fixed deposit receipts.

3) We have heard Ld. counsel Mr. Vasavada for the industry and Ld. counsel Mr. Haresh Trivedi and Mr. Ashish Desai for the State. Upon hearing Ld. counsels for the parties, and upon the verification of the material presented by the industry, we are satisfied that the industry passes the qualifying criteria and therefore is entitled to claim and receive the above said amount.

4) We therefore direct the concerned branch of the Registry to refund the above said amount with interest earned thereon, if any, within a period of three weeks hereof, after ascertaining the accounts.

5) Ld. counsel for the industrial unit agrees that the loss in interest, if any, arising out of the premature encashment of the F.D.R., shall be borne by the industrial unit. We, therefore, direct the concerned branch of the Registry to pay the said amount with available interest even by premature encashment of the F.D.R.

6) Ld. counsel for the industrial unit makes a statement that, if later on the amount either whole or in part, is required to be returned due to any exigency arising out of the taking of the accounts, or because of the orders of the Supreme Court, the same shall be returned with interest forthwith, upon the orders of the Court, and that the undertaking to this effect shall be filed within a period of one week hereof by the unit through a responsible person/ officer.

7) Liberty is reserved for the parties to approach this Court in case of difficulty. We reserve the same liberty for the concerned branch of the Registry, as though not the party in the proceedings, they are the accounting and disbursing agency.

8) The concerned branch of the Registry shall effect

the payment, as aforesaid, only after the undertaking is filed by the industrial unit as per para no.6 of these orders.

Rule is made absolute accordingly. No costs.

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